

RANDALL DEAN

v.

OFFICE OF STATE FIRE MARSHAL et al.

Argued September 7, 2021

Decided October 7, 2021

Panel: STANFILL, C.J., and MEAD, GORMAN, JABAR, HUMPHREY, HORTON, and CONNORS, JJ.

MEMORANDUM OF DECISION

Randall Dean appeals from a judgment entered by the Superior Court (Kennebec County, *Stokes, J.*) declining Dean's request that the court order the Office of State Fire Marshal (OSFM) to disclose the names and contact information of victims and witnesses interviewed in the course of the OSFM's investigation of a propane gas explosion. Contrary to Dean's contention, the court did not err when it determined that the information to which Dean sought access was redacted "for just and proper cause," 1 M.R.S. § 409 (2021), because the information constitutes "[r]ecords that have been designated confidential by statute," 1 M.R.S. § 402(3)(A) (2021).¹ See 16 M.R.S. § 804(3) (2021); *Blethen Me. Newspapers, Inc. v. State*, 2005 ME 56, ¶¶ 10-40, 871 A.2d 523.

¹ The court also determined, in the alternative, that the materials to which Dean sought access constitute "[r]ecords that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding," 1 M.R.S. § 402(3)(B) (2021). Dean did not address this issue in his initial brief, but our conclusion that the court did not err obviates any need to decide whether the issue was waived. See *Lincoln v. Burbank*, 2016 ME 138, ¶ 41, 147 A.3d 1165; Alexander, *Maine Appellate Practice* § 404 at 316 (5th ed. 2018); *Young v. Wells Fargo Bank, N.A.*,

The entry is:

Judgment affirmed.

Peter T. Marchesi, Esq. (Orally), and Cassandra S. Shaffer, Esq., Wheeler & Arey, P.A., Waterville, for appellant Randall Dean

Aaron M. Frey, Attorney General, and Kent Avery, Asst. Atty. Gen. (Orally), Office of the Attorney General, Augusta, for appellee Office of the State Fire Marshal et al.

Kennebec County Superior Court docket number CV-2020-129
FOR CLERK REFERENCE ONLY

717 F.3d 224, 239 (1st Cir. 2013) (“We have repeatedly held, with a regularity bordering on the monotonous, that arguments not raised in an opening brief are waived.” (quotation marks omitted)).